

**OPINION**  
**48-74**

August 2, 1948            (OPINION)

GAME AND FISH

RE: Governor's Proclamation -- Chapter 20-08 and Sections 20-1101 and 20-1104 of the N. Dak. Revised Code of 1943.

Your letter of July 29 re the above addressed to the Attorney General has been received and sent to my desk.

Chapter 20-08 of the North Dakota Revised Code of 1943 provides specifically what may be provided in the Governor's Proclamation. It is our opinion, therefore, that the Governor would have no authority by his proclamation to keep legally shot game taken in South Dakota from being brought into North Dakota for processing. If it is desirable that this be done, I would suggest that the matter be taken up with next Legislature.

You ask, "whether or not we could legally open state owned and easement refuges for hunting during the legal open season." Section 20-1104 authorizes the commissioner to establish refuges on state-owned land. I see no legal reason why when this has been done that the setting aside of state land as refuges may not be modified by further order of the Commissioner, allowing hunting thereon during the legal open season, nor from actually disestablishing such game refuges if he sees fit. Game refuges established on private land by section 20-1101 are not subject to control by the commissioner. When properly established the refuge remains for the time provided by the application therefor.

NELS G. JOHNSON

Attorney General